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A horizontal bar chart consisting of 25 black bars of varying lengths. The bars are arranged vertically, with the longest bar in the middle and the shortest bars at the top and bottom. The lengths of the bars represent different values, likely percentages, ranging from approximately 10% to 100% of the chart's width.

From: Lendrum, Jacqueline M (DEC) [mailto:jacqueline.lendrum@dec.ny.gov]
Sent: Friday, January 13, 2017 1:15 PM
To: Arcaya, Alyssa
Subject: Re: CAFO Permit language

Rather than us continue to go around and around on this please send us exactly what you want and we'll either include it or tell you why we can't.

The pressure to get this out is enormous, we are out of time so please try to get me something by Tuesday morning.

If we need to discuss please send a # and I will jump out of my meeting and call.

Thanks.

From: Arcaya, Alyssa <arcaya.alyssa@epa.gov>
Sent: Friday, January 13, 2017 1:02:56 PM
To: Latessa, Sara H (DEC); Lendrum, Jacqueline M (DEC)
Cc: Kogan, Joshua; Saporita, Chris; Arvizu, Christy; Coats, Andrea
Subject: RE: CAFO Permit language

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Hello Jackie and Sara,

Apologies if you have already received the input below from Andrea, but I don't believe she got a chance to send it before she departed for the day yesterday. Unfortunately the language provided does not satisfy our comments or concerns. I also wanted to note that while Jackie and I discussed general ideas and some ad-libbed language, she didn't this share draft language with me. The following issues still remain:

1. The new draft still contains the following: "Unless otherwise notified by the Department, coverage under this general permit will begin 60 calendar days after the Department receives the completed NOI and ANMP." This fails to guarantee that DEC will affirmatively approve each NOI before coverage becomes effective, as required by 40 C.F.R. 122.23(h).
2. NYSDEC should provide further clarity with regard to the review, comment and request for a hearing by stating that the 30 days will start upon publication to the ENB. While it could be seen as implicit in the reading below, NYSDEC should include it explicitly in order to avoid any ambiguity.
3. NYSDEC should include how it will notify the applicant that the NOI and completed ANMP are approved. By not stating how, the applicants are left with the assumption that if they have not heard from NYSDEC after 60 days, the NOI and ANMP have been

approved, despite not receiving any correspondence stating such.

4. The 60 day automatic coverage language allows for the possibility that coverage could be granted to a facility that has an inadequate ANMP (even if it's complete). Completeness and adequacy are two separate things, and adequacy can only be determined after a NYSDEC review.
5. The added language: "and the Department will review and if appropriate, approve the completed NOI and ANMP or will notify the applicant otherwise," is both confusing and unclear. Specifically, what is meant by, "if appropriate" and "or will notify the applicant otherwise"? These phrases seem to imply that applicants will not always be notified, as required. Furthermore, the phrase "if appropriate" implies that all NOIs and ANMPs may not be reviewed for approval, as required.

If you'd like us to suggest some language that would satisfy our concerns, we can do so. We can also schedule a call to discuss soon if that would be easier. Just let us know how you'd like to proceed.

Have a great weekend,

Alyssa

From: Latessa, Sara H (DEC) [<mailto:Sara.Latessa@dec.ny.gov>]

Sent: Monday, January 09, 2017 2:46 PM

To: Coats, Andrea <Coats.Andrea@epa.gov>

Cc: Kogan, Joshua <Kogan.Joshua@epa.gov>; Arcaya, Alyssa <arcaya.alysa@epa.gov>;

Lendrum, Jacqueline M (DEC) <jacqueline.lendrum@dec.ny.gov>

Subject: Re: CAFO Permit language

Andrea, Alyssa, and Josh,

Please see the "Duty to file Notice of Intent" section of the CWA general permit below. I've highlighted the specific language Alyssa discussed with Jackie before the holidays. We're confident this addresses EPAs comments regarding this section. Please confirm as soon as you can so we can advise executive.

Thank you!,

Sara

A. Duty to File Notice of Intent and Annual Nutrient Management Plan (ANMP)

Every owner/operator seeking coverage under this general permit must submit to the Department a completed farm-specific Notice of Intent (NOI) and ANMP. The ANMP must contain all of the information specified in Appendix C of this general permit, which includes a CNMP certification.

The completed NOI must be signed by the owner/operator and the ANMP must be signed by the owner/operator and the AEM certified planner in accordance with Part V.G. of this general permit. Within 60 calendar days after the Department receives the completed NOI and ANMP: the availability of the NOI and ANMP will be posted to the Environmental Notice Bulletin; the public will be afforded the right to review, comment, and request a hearing for 30 days; **and the Department will review and if appropriate, approve the completed NOI and ANMP or will notify the applicant otherwise.** Unless otherwise notified by the Department, coverage under

this general permit will begin 60 calendar days after the Department receives the completed NOI and ANMP, but not prior to the effective date of this general permit. The owner/operator shall maintain in their on-site records a copy of all documents described in Part IV.G.1 in accordance with Part IV.I. of this general permit. In addition, the owner/operator that seeks coverage under this general permit must comply with the requirements below.

Sara H. Latessa
NYSDEC – Central Office
625 Broadway
Albany, NY 12233
(518) 402-8279

From: Coats, Andrea <Coats.Andrea@epa.gov>
Sent: Friday, January 6, 2017 10:04 AM
To: Lendrum, Jacqueline M (DEC); Latessa, Sara H (DEC)
Cc: Kogan, Joshua; Arcaya, Alyssa
Subject: Re: CAFO Permit language

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Hi Jackie and Sara,
Hope you had a good Holiday Season.
Josh is acting for Alyssa for about 3 months while Alyssa is Branch Chief. Please include him on any emails during that time.
Andrea

From: Lendrum, Jacqueline M (DEC) <jacqueline.lendrum@dec.ny.gov>
Sent: Wednesday, December 21, 2016 12:08 PM
To: Coats, Andrea
Subject: FW: CAFO Permit language

From: Lendrum, Jacqueline M (DEC)
Sent: Tuesday, December 20, 2016 5:50 PM
To: 'Arcaya, Alyssa' <arcaya.alyssa@epa.gov>
Subject: CAFO Permit language

Hey – I just wanted to drop you a quick note – we didn't make our deadline for the CAFO permits. Legal is taking another review of the final cleaned up versions and when Sara gets back after the 1st, we will send you the final language edits we promised you. I hope to get final approval to issue the permits shortly after that.

I hope you have a great holiday.

Jackie

Jacqueline M. Lendrum

Research Scientist, Division of Water

New York State Department of Environmental Conservation

625 Broadway, Albany, NY 12233

P: 518-402-8165 | F: 518-402-9029 | jacqueline.lendrum@dec.ny.gov

www.dec.ny.gov |  | 